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Attorneys for Individual and Representative
Plaintiff Kevin Nygren and the
Proposed Class

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KEVIN NYGREN, on behalf of himself
and all others similarly situated,

Plaintiff,

vs.

APPLIED MICRO CIRCUITS CORPORATION,
CESAR CESARATTO, PAUL R. GRAY, FRED
SHLAPAK, ROBERT F. SPROULL, DUSTON
WILLIAMS, PARAMESH GOPI, and
CHRISTOPHER ZEPF,

Defendants.

Case No. 3:16-cv-07400-VC

**AMENDED STIPULATION AND
[PROPOSED] ORDER CONCERNING
PLAINTIFF'S VOLUNTARY DISMISSAL
OF THE ABOVE ACTION WITH
PREJUDICE AS TO PLAINTIFF ONLY AND
PLAINTIFF'S COUNSEL'S ANTICIPATED
APPLICATION FOR AN AWARD OF
ATTORNEYS' FEES AND EXPENSES**

Judge: Honorable Vince Chhabria
Courtroom: 4 – 17th Floor

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2 WHEREAS, on November 21, 2016, Applied Micro Circuits Corporation (“Applied Micro” or
3 the “Company”) and MACOM Technology Solutions Holdings, Inc. (“MACOM”) announced that they
4 had entered into an Agreement and Plan of Merger and Reorganization, dated as of November 21, 2016
5 (the “Merger Agreement”), among Applied Micro, MACOM, MACOM’s wholly-owned subsidiary
6 Montana Merger Sub I, Inc. (“Purchaser”) and MACOM’s wholly-owned subsidiary MACOM
7 Connectivity Solutions, LLC (f/k/a Montana Merger Sub II, LLC) (“Merger Sub Two”), pursuant to
8 which Purchaser would commence an exchange offer to acquire all of the outstanding shares of Applied
9 Micro in exchange for \$3.25 in cash and 0.1089 shares of MACOM common stock per share of Applied
10 Micro common stock (the “Offer”), and following the consummation of the Offer, Purchaser would
11 merge with and into the Company (the “First Merger”), with the Company surviving the First Merger as
12 a wholly-owned subsidiary of MACOM, and immediately following the First Merger, the Company, as
13 the surviving company of the First Merger, would merge with and into Merger Sub Two (the “Second
14 Merger”), with Merger Sub Two surviving the Second Merger as a wholly-owned subsidiary of
15 MACOM (the “Proposed Transaction”);
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19 WHEREAS, on December 23, 2016, MACOM, through Purchaser, commenced the Offer. In
20 connection with the commencement of the Offer, on December 21, 2016, the Company filed a
21 Solicitation/Recommendation Statement on Schedule 14D-9 (together with any subsequent amendments
22 and supplements thereto, the “Recommendation Statement”) with the U.S. Securities and Exchange
23 Commission (the “SEC”). Among other things, the Recommendation Statement (i) summarized the
24 Merger Agreement, (ii) provided an account of the events leading up to the execution of the Merger
25 Agreement, (iii) stated that Applied Micro’s board of directors had determined that the terms of the
26 Merger Agreement and the transactions contemplated by the Merger Agreement were fair to and in the
27 best interests of Applied Micro and Applied Micro’s stockholders and unanimously recommended that
28

1 Applied Micro’s stockholders accept the Offer and tender their shares in the Offer, and (iv) summarized
2 the valuation analyses and fairness opinion of each of Morgan Stanley & Co. LLC (“Morgan Stanley”)
3 and Needham & Company (“Needham”), the financial advisors to Applied Micro’s board of directors
4 and the Company;

5
6 WHEREAS, on December 29, 2016, plaintiff Kevin Nygren (“Plaintiff”) filed a purported class
7 action lawsuit in the District Court for the Northern District of California, on behalf of himself and other
8 public stockholders of Applied Micro, challenging the adequacy of the disclosures made in the
9 Recommendation Statement, captioned: *Nygren v. Applied Micro Circuits Corporation, et al.*, Case No.
10 3:16-cv-07400 (the “Nygren Action”);

11
12 WHEREAS, this lawsuit alleged, among other things, that Defendants Applied Micro, Cesar
13 Cesaratto, Paul R. Gray, Fred Shlapak, Robert F. Sproull, Duston Williams, Paramesh Gopi, and
14 Christopher Zepf (collectively, the “Defendants”) committed disclosure violations under Sections
15 14(d)(4), 14(e) and 20(a) of the Securities and Exchange Act of 1934 (the “Exchange Act”), and Rule
16 14d-9 promulgated thereunder;

17
18 WHEREAS, on January 9, 2017, Plaintiff filed a Notice of Ex Parte Motion and Ex Parte Motion
19 for a Temporary Restraining Order enjoining the closing of the tender offer until Defendants cured the
20 alleged disclosure violations;

21
22 WHEREAS, on January 11, 2017, the Court entered an order directing Defendants to file a
23 response to Plaintiff’s Ex Parte Motion by January 16, 2017,

24 WHEREAS, on January 13, 2017, the Court entered an order extending Defendants’ deadline to
25 file a response to January 17, 2017;

1 WHEREAS, on January 17, 2017, Applied Micro filed an amendment to the Recommendation
2 Statement on Schedule 14D-9/A with the SEC, disclosing additional information to shareholders (the
3 “Supplemental Disclosure”);

4 WHEREAS, Plaintiff believes that the information contained in the Supplemental Disclosures
5 addresses the alleged omissions set forth in his complaint;

6 WHEREAS, on January 17, 2017, Plaintiff withdrew his Ex Parte Motion for a Temporary
7 Restraining Order;

8 WHEREAS, Plaintiff has concluded that, as a result of the filing of the Supplemental
9 Disclosures, the claims related to the Proposed Transaction identified in the complaint have become
10 moot; and

11 WHEREAS, on January 26, 2017, MACOM completed its acquisition of Applied Micro, and the
12 Proposed Transaction was consummated;

13 **IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned
14 attorneys for the respective parties:

15 1. Plaintiff hereby agrees to voluntarily dismiss this Action with prejudice as to himself
16 only, and without prejudice as to all other members of the putative class;

17 2. Plaintiff asserts that the prosecution of the Action caused Defendants to reveal new,
18 material information in the Supplemental Disclosures, and intends to file a motion seeking an attorneys’
19 fee and expense award in connection with the common benefit provided to Applied Micro’s
20 stockholders as a result of the filing of the Supplemental Disclosures;

21 3. Defendants deny that the information contained in the Supplemental Disclosures
22 constitutes information material to a shareholder’s evaluation of the Proposed Transaction or
23 understanding of the Recommendation Statement;

1 4. Defendants reserve the right to oppose Plaintiff's anticipated petition for an award of
2 attorneys' fees and expenses;

3 4. This Court retains continuing jurisdiction over the parties in this Action solely for
4 purposes of further proceedings related to the adjudication of Plaintiff's anticipated application for an
5 award of attorneys' fees and expenses.
6

7 5. Plaintiff shall file his petition for an award of attorneys' fees and expenses by no later
8 than April 14, 2017.

9 DATED: March 7, 2017

LEVI & KORSINSKY LLP

11 By: /s/ Rosemary M. Rivas
Rosemary M. Rivas

12 *Counsel for Plaintiff*

14 DATED: March 7, 2017

ROPES & GRAY LLP

16 By: /s/ Richard L. Gallagher
Richard L. Gallagher, Jr.

18 *Counsel for Defendants*

19
20 **FILER'S ATTESTATION**

21 Pursuant to Civil Local Rule 5-1 regarding signatures, I attest under penalty of perjury that the
22 concurrence in the filing of this document has been obtained from all signatories.

23 /s/ Rosemary M. Rivas
24 Rosemary M. Rivas

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[PROPOSED] ORDER

Based on the foregoing stipulation and good cause being shown, the Court hereby GRANTS the parties' Stipulation. The Court hereby orders as follows:

1. The Action is hereby dismissed with prejudice as to Plaintiff only, and without prejudice as to any other member of the putative class.
2. This Court retains continuing jurisdiction over the parties in the Action solely for purposes of further proceedings related to the adjudication of Plaintiff's anticipated application for an award of attorneys' fees and expenses.
3. Plaintiff shall file his petition for an award of attorneys' fees and expenses by no later than April 14, 2017.

IT IS SO ORDERED.

Date: _____

HON. VINCE CHHABRIA
United States District Court Judge